

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CHRISTOPHER WILLIS,

Plaintiff,

Case No. 14-cv-14941

v.

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

FIRST CAPITAL RECOVERY, INC.,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING MOTION
FOR DEFAULT JUDGMENT, AND DIRECTING PLAINTIFF TO SUBMIT
PROPOSED JUDGMENT**

On December 30, 2014, Plaintiff Christopher Willis filed Complaint against Defendant First Capital Recovery, Inc. alleging eight violations of the Fair Debt Collection Practices Act. Willis alleges that Defendant violated the Act by: (1) communicating with Willis about the debt after being informed that he was represented by counsel; (2) harassing, oppressing, and/or abusing Willis in connection with collecting the debt; (3) using false, deceptive, and/or misleading representations or means in connection with collecting the debt; (4) falsely representing that its representative was an attorney or was communicating on behalf of an attorney; (5) threatening to take action that could not legally be taken and/or was not intended to be taken; (6) using false, deceptive, and/or misleading representations or means in connection with collecting the debt and/or obtaining information about Willis; (7) failing to disclose in every communication with Willis that Defendant was a debt collector; and (8) using an unfair or unconscionable means to attempt to collect the alleged debt. *See* Pl.'s Compl., ECF No. 1.

This case was referred to Magistrate Judge Patricia T. Morris for consideration of all pretrial matters. ECF No. 3.

Defendant was served on March 2, 2015 but never answered the complaint by the deadline of March 26, 2015. See ECF Nos. 4 & 5. Willis requested a Clerk's entry of default on April 22, 2015 and default was entered by the Clerk of Court that same day. See ECF Nos. 7 & 8. Willis then filed a motion for a default judgment on May 14, 2015. ECF No. 11. Willis requested \$13,697.50 in damages, "representing \$1,000 statutory damages, \$10,000 actual damages, \$2,152.50 attorney fees, \$400 court costs, and \$145.00 process server costs." Rep. & Rec. 4, ECF No. 12.

On September 12, 2014, Magistrate Judge Patricia T. Morris issued a report recommending that Willis' motion be granted but that his actual damages be reduced to \$5,000.00. Rep. & Rec. 4-5, ECF No. 12. She noted that decisions in this and other district courts support a more modest actual damages award, citing \$5,000.00 as a more acceptable figure. *Id.*

Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, Plaintiff did not file any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 12, is **ADOPTED**.

It is further **ORDERED** that Plaintiff's Motion for Default Judgment, ECF No. 11, is **GRANTED**.

It is further **ORDERED** that Plaintiff is **DIRECTED** to submit a proposed default judgment reflecting the terms set out herein **on or before July 10, 2015**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: June 29, 2015

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 29, 2015.

s/Karri Sandusky
Karri Sandusky, Acting Case Manager